

REMARKS:

Applicant hereby confirms the election of invention II including Claims 9 through 18. Claims 1 through 8 are therefore cancelled without prejudice.

Claims 9 through 18 have also been cancelled and replaced by new Claims 19 through 24. Claim 19 is based on original Claim 18 and is directed to the method of storing semen. However the claim has been extensively amended and additional features included and rendered more clear so as to more clearly distinguish the claimed invention from the prior art.

Claim 21 is a second independent claim which includes all of the limitations of Claim 19 together with limitations of original Claim 9 concerning the direction of pivotal movement of the tubes so as to provide the mixing action end to end.

Claim 24 is a yet further independent claim including all of the features of Claims 19 and 21 together with the further features, taken from original Claim 9, that the tubes are carried in carrying trays and the carrying trays are mounted on a rack within a stack of receptacles of the rack.

The claims therefore fall within the election since the claims are basically directed to the same invention as originally set forth in Claim 18.

The claims have been amended taking into account the points raised by the Examiner under 35 U.S.C. 112 together with yet further points of antecedent and clarity which have been noted during the preparation of this response.

Turning now to the rejection under the prior art, the Examiner has rejected original Claim 18 under 35 U.S.C. 103 based upon a combination of Dschida in view of

applicants admitted prior art and in view of Wiesman. The arguments presented herein will also take into account the additional prior art cited by the Examiner but not applied in regard to Claim 18 of Coulter.

Claim 19 is now distinguished from the prior art by the following features:

- a) The storage is effected within the interior of a refrigerating container.
- b) Within the refrigerating container is mounted a mounting member which operates to effect the movement described below.
- c) The semen is carried in a plurality of separate storage tubes which are mounted on the transportable carrying member (carrier or tray in the embodiments) so that the tubes can be transported on the carrying member from place to place.
- d) Within the refrigerated interior, the tubes are carried in their carrying member which is mounted on the mounting member (the rack in the embodiment) for movement to prevent settling.

The Examiner has referred to the admitted prior art in the specification but this merely states that semen is provided in tubes and it is desirable to periodically rotate the tubes to prevent settling.

This prior art in no way suggests that the tubes should be mounted on a carrying member (the tray in the embodiment) which is in turn mounted on a mounting member (the rack in the embodiment) which is maintained within the refrigerated container.

Thus the present invention provides a carrying member which can be readily used to carrying the tubes from place to place and yet that carrying member can be inserted into the refrigerated container and placed on the mounting member with the mounting member being operated to effect the necessary movement. The admitted prior art in no way suggests that such an arrangement should be provided.

The Examiner has therefore turned to Wiesman and suggests that this should be used in combination with the admitted prior art. However Wiesman provides a refrigerated container which is itself the transportation device basically in the form of a cooler which is readily transportable. Wiesman therefore provides a device which provides the necessary cooling action. Wiesman does not however mention the necessity of rotating or turning the samples to prevent settling. Wiesman apparently provides an entirely satisfactory solution without such movement. If it were desired to provide such movement in Wiesman, this could simply be provided by reaching into the container and effecting the movement manually. One might even consider it possible that the whole container could be inverted or rotated to provide the necessary movement.

Thus if one were to use either of these two obvious steps from Wiesman that is to reach into the container and effect the movement manually or to rotate the whole container with the elements mounted thereon, one would not obtain the arrangement defined in the claim above.

Yet further Wiesman does not in any way provide nor suggest a carrier which is transportable but is then mounted onto a mounting member or rack within the

interior of a refrigerated container. To the contrary Wiesman teaches away from this arrangement in that it provides the transportable cooled container which can thus be readily carried and readily manipulated. The solutions to the problem are therefore entirely different.

Turning now to the additional prior art cited by the Examiner which is that of Dschida, this merely provides a series of racks into which individual tubes can be inserted. Thus in the arrangement shown in Figure 9B there are 3 such racks, each of which is fixedly mounted within the support so that it cannot be removed. In each of the racks is mounted 4 tubes so that the tubes are inserted into the racks and the racks operated by the flicking action described to provide movement of the material within the tubes.

Dschida provides no refrigeration nor suggests any refrigeration is desirable. Instead heating is sometimes provided.

Even if one were to consider the possibility of refrigeration for Dschida and therefore wish to combine the teaching of Wiesman and Dschida as proposed by the Examiner, it is submitted that the resultant construction provided by such a combination includes a refrigerated transportable container of the type of Wiesman within which is mounted the rack of 9B of Dschida.

This construction clearly does not provide the present invention since instead the present invention provides the transportable carrying member on which the tubes can be removed which is then mounted on the mounting member within the refrigerated container.

The limitation in the method Claim 19 of the transportable carrier has been made fully clear by the specific statement that the carrying member or trays are individually removed with the tubes thereon from the container. Even if the Examiner were to argue that some form of dismantling of the system of Figure 9B could be effected, there is simply no disclosure in Dschida of the actual removal of the carrying member or tray from the construction of Dschida. Dschida therefore failed to disclose this feature.

In other words, it is submitted that none of the prior art documents discloses the transportation of the carrying member with the tubes thereon from the position within the refrigerator on the mounting member for transportation. This feature is simply not a result of any combination of Wiesman, Dschida and the admitted prior art.

The Examiner has further cited the prior art of Coulter. This prior art is not cited in combination with Wiesman or the admitted prior art in regard to the method but is simply cited in regard to the apparatus claims which are now cancelled.

Coulter provides no refrigeration.

Coulter does not in any way disclose movement of the tubes during storage but instead discloses a mixing action which occurs after storage is complete and when the tubes are in operation. Thus it is clear in Coulter that the racks 12 are contained in the receptacle 16 and in that receptacle they are maintained stationary and simply sit in horizontal condition.

Even if one were therefore to apply refrigeration to the container 16 to maintain the tubes in refrigerated condition, in that refrigerator the racks simply sit in a stack and there is absolutely no movement.

This entirely different from the present invention where the present invention is concerned with periodic movement of the semen while in refrigerated storage.

In other words there is no motivation for any person concerned with the problems of the present invention to look for Coulter for a solution since Coulter merely provides a mixing action after storage is complete. This is therefore entirely irrelevant to the present invention and there is no motivation in the document itself nor in any of the other documents to adopt any disclosure from Coulter within the other devices which the Examiner has cited.

Yet further Coulter does not disclose that the trays 12 can be removed for transportation to a remote location for use of the tubes. The trays are simply delivered one at a time onto the pivoting conveyor for a mixing action.

The Examiner suggests that Coulter overcomes some of the deficiencies of the Dschida in that it provides a stack of the trays. However the stack of trays is merely within the container and the only pivoting action occurs when the tray has been removed from the stack and placed onto the conveyor for the pivoting action. There is simply no disclosure therefore in Coulter that a pivoting action occurs during the storage action within the storage location on a mounting member which provides the pivotal action.

The present invention therefore provides a unique solution to the problems of semen storage in that it provides a transportation carrier which allows the tubes to be carried by the user from place to place and yet it provides a mounting member permanently within the refrigerated container so that the transportation container itself can be placed onto the mounting member and its pivotal action applied by the mounting member within the refrigerated container.

None of the prior art documents discloses nor suggests an arrangement of this type.

None of the combinations of documents as set forth above suggests such a solution to the problems of semen storage.

It is submitted therefore that Claim 19 is properly distinguished from the prior art and should therefore be allowed.

Claim 21 includes all of the limitations of Claim 19 and should therefore be allowable therewith. Claim 21 yet further includes the limitation relating to the direction of the tube and the direction of tilting movement of the tube.

Even if the Examiner were therefore to consider it obvious to insert the construction of Dschida into a refrigerated container and if the Examiner were to consider that it is obvious (contrary to the clear teaching) to rip off the fixed supports 20 for transportation of the tubes, this claim is distinguished from such a construction by the arrangement of the tubes and their tilting action.

Again Coulter does not overcome the deficiencies of this construction because Coulter discloses that the tilting action only occurs after the trays have been removed from storage.

Claim 24 includes all of the limitations of Claims 19 and 21 together with the yet further features that the trays are arranged in a stack on the supporting rack in individual receptacles. In addition the trays are pivoted simultaneously while on the mounting rack.

Even if the Examiner were therefore to contort the disclosures of the above combination of references to conclude that Claims 19 and 21 are obvious, Claim 24 is yet further distinguished by the fact that there are provided receptacles for the trays and the pivoting action occurs while the trays are in the receptacles. In Coulter it is entirely clear that the pivoting action occurs only when the trays have been removed from their stacked condition. In Coulter there is no receptacle but the trays are merely stacked one on the next. In Coulter there is no simultaneous reciprocation.

Even if one were to utilize the direction of the tubes and the tilting action from the conveyor of Coulter in the construction of Dschida, one would simply turn the tubes of Dschida in the arrangement of Figure 9B from their vertical position to their horizontal position and provide the pivoting action in this orientation. This would therefore not provide the stack defined in this claim together with the simultaneous pivoting action of a plurality of trays in the stacked receptacles.

It is submitted therefore that Claim 24 is yet further distinguished from the prior art and should therefore be allowed.

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In view of the foregoing, further and favourable reconsideration of this application is respectfully requested.

Respectfully submitted

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